

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Applicant's representative appreciates the courtesies extended by Examiner Nguyen during a telephonic interview conducted in early June 2005. During the interview, the rejections based upon Terrasson and Isomursu were discussed in light of the distinguishing features argued in the last response. The Examiner objected to the use of the term "may be" in claim 1. The Examiner requested that an RCE be filed and that claim 1 be amended to affirmatively state that the modification of the dynamic menu is in immediate response to the direct input from the user. That change has been made. The Examiner also indicated that if an RCE was filed, that claims 8-13 would be substantively considered.

Claims 1 and 6-7 stand rejected under 35 U.S.C. §102(e) as being anticipated by Terrasson (Patent No. 6,061,576). This rejection is respectively traversed.

In order for Terrasson to anticipate claim 1, Terrasson must disclose each and every feature recited therein. Terrasson does not.

Terrasson discloses a portable phone with a tree menu which uses a data processor to model a user's behavior when going through and making selections from the tree menu. Based on that model, the processor adapts the menu to better accommodate the user's behavior. The modeling is determined using fuzzy logic and uses weights when considering the frequency that the user selected particular menu items.

In contrast to Terrasson's automated fuzzy logic approached to modifying a menu, claim 1 (and corresponding method claim 9), "affirmatively" recites (as requested by the Examiner) that the contents of the dynamic menu are modified in immediate response to direct inputs of the user. This allows the user--rather than a machine--to customize the dynamic

display according to the user's preferences, which may or may not be identical to the user's behavior. For example, the user may wish to arrange the dynamic menu, not according to the frequency with which the user selects a particular menu option, but rather in some other fashion. And because the apparatus Terrasson already adapts to the behavior of the user to modify the dynamic menu, there would have been no reason to modify Terrasson to allow the user to modify the dynamic menu as recited in claims 1 and 9. Thus, the anticipation rejection should be withdrawn.

Claims 3-5 have been rejected under 35 U.S.C. §103 as being unpatentable over Terrasson in view of Isomursu (U.S. Patent NO. 6, 400,958). This rejection is respectfully traversed.

Isomursu discloses creating menus where a protocol defines a number of predetermined commands according to which creation and change of menus and menu structures are controlled. Although there is some disclosure in column 12 of adding certain menu items, Isomursu makes plain that it is **not** the user which performs those updates but rather a server remote from the mobile terminal. Isomursu explains in column 10 that:

the terminal includes an application which is capable of creating menus in the terminal according to a **received** user message...The user message contains information according to which the menu application creates or updates menus in the terminal...which the operator can update in the user's terminal over the air, i.e. without the need for the user to take the terminal to a service place.

Column 10, lines 6-38. The "user message" is not created by the user but rather by a telephone operator. Even combined with Terrssson's fuzzy logic program, the combination of Terrasson and Isomursu fails to disclose the user as the entity that provides commands and information to

Kristoffer ÅBERG  
Appl. No. 09/523,984  
June 15, 2005

modify the dynamic menu. Neither reference permits the user to directly modify a dynamic menu to accommodate the user's personal preferences.

Nor is there any proper motivation to combine Isomursu with Terrasson. Most telling is Isomursu's statement at column 10, lines 40-44: "the menu structure can be dynamically updated over the air *without any user assistance*" (emphasis added). Isomursu thus *teaches away* from the claimed invention.

The application is in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:



John R. Lastova  
Reg. No. 33,149

JRL:sd  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100